

ETHICS POLICY REVIEW COMMITTEE

April 18, 2005

2:00 p.m.

Conference Room 302A

10 N. Division Street

Battle Creek, MI

Committee Members Present: Commissioners Hersha, Bullock, and Baldwin

Staff Present: City Attorney Clyde Robinson and City Clerk Susan Bedsole

Call to Order: The meeting was called to order by Commissioner Hersha at 2:15 p.m. Commissioner Baldwin moved that Commissioner Hersha be Chairman, supported by Commissioner Bullock.

Commissioner Hersha asked if anyone would like to propose rules for public comment. Commissioner Baldwin proposed that public comment be provided at the beginning of the meeting with a maximum of three minutes per person subject to the topic of the meeting. Mr. Robinson suggested each person be allowed to address the committee only once. Commissioner Baldwin amended her motion. Commissioner Bullock supported. All in favor.

Public Comment: None

Business: Commissioner Hersha stated the purpose of this meeting is to review the Code of Ethics for the Battle Creek City Commissioners effective approximately one year ago. Commissioner Hersha further stated that Mayor Godfrey wanted the Committee to review the Code and survey fellow commissioners for their input. He asked if there were any suggestions or input regarding this.

Commissioner Baldwin stated the policy put ethics in the forefront of her mind and made her more aware to disclose information.

Commissioner Hersha asked how the policy has been effective, useful and/or relevant.

Commissioner Bullock stated that he viewed the Code of Ethics as a living document. He stated he would like to hear from the Commissioners how it applies to their daily life, what needs to be added, deleted or amended.

Commissioner Baldwin stated she would be interested in hearing if any commissioners have received public comment.

Commissioner Bullock stated there were many comments at the time the Commission adopted the Code of Ethics.

Commissioner Baldwin asked if there have been any changes at the state level regarding ethics that would impact cities.

Mr. Robinson stated no, there is no state-wide law. He stated there is a group of attorneys working on a Uniform Code, but it has not passed.

Commissioner Hersha stated a question that should be asked is what questions they have as to the specifics. He stated that even though they can see the language, they may not be clear about the language.

Commissioner Baldwin agreed. She stated that her husband is on a board.

Commissioner Hersha asked how the commission should answer questions regarding the policy.

Mr. Robinson stated these are legal questions and he has always encouraged the commission to ask questions. He stated that he gives conservative advice regarding ethics since it is not always black or white. He stated the ordinance simply requires disclosure of relationships and it is always better to disclose.

Commissioner Hersha suggested reviewing the questions at the next meeting. He stated the answers should be published since most of the commissioners share common issues and problems. He continued with the survey and summarized what questions should be asked of fellow commissioners as follows: 1) effect on day-to-day public work, 2) changes, 3) public comment, and 4) questions.

Commissioner Bullock asked how often the policy is reviewed.

Mr. Robinson answered annually, once a year. He feels we are close to the one-year anniversary and have complied to the mandate of the ordinance stating yearly review. Mr. Robinson feels it is best to review it in the spring. He added that technically it needs to be done only once during the calendar year.

Commissioner Bullock stated in regards to efficiency, he wonders how the commissioners are using it from day-to-day and its effect in the area of public perception. He questioned if we thought about its use on the periphery?

Commissioner Hersha suggested e-mailing him regarding the specific language of the questions they wished to ask the commissioners.

Mr. Robinson advised to be careful when e-mailing. It could be perceived as working behind-the-scenes. He suggested making decisions in open meetings only.

Commissioner Baldwin suggested asking the community and placing a questionnaire in The Current as to if the community feels that the policy is effective.

Commissioner Hersha stated that we can do this in the future.

Five Minute Recess

Commissioner Hersha suggested reviewing the Code of Ethics article by article as follows:

Preamble – no comment.

1) Acts in the Public Interest - no comment.

2) Compliance with Law – Commissioner Hersha asked what “employer responsibilities” means. Mr. Robinson stated that since he did not draft it, he suggests that it means the city commissioners would be subject to the same rules and regulations as other Battle Creek employees. This would include a work environment free of discrimination. Commissioner Hersha stated that it is vague and could be deleted. He feels that future commissioners would not understand it. Mr. Robinson added that in a pure commission form of government, each commissioner would be in charge of a department as chief administrator and that person would be responsible for employer responsibilities. Commissioner Baldwin asked if any other laws would apply to this. Mr. Robinson answered no. Commissioner Baldwin asked if it would red flag this by pulling it out. Commissioner Bullock stated that it would not because the issue is covered elsewhere. Mr. Robinson stated that it is redundant and is covered in Section 14.

3) Respect for Process – no comment.

4) Conduct of Public Meetings – Commissioner Baldwin stated that while the commission is following this set of rules, it lets the public know how business is conducted. Commissioner Bullock feels the language is especially necessary for new commissioners.

5) Communication – Commissioner Hersha stated that some people do not realize it is a requirement to share information that they have.

6) Full Disclosure – Commissioner Hersha stated he disclosed a campaign contribution when appointing a friend to a board. He asked Mr. Robinson his opinion on his disclosure. Mr. Robinson stated that this is considered to fall under the “personal relationship” language and it is best to disclose. Even though it was disclosed on campaign finance filing, it still is best to disclose. Commissioner Hersha suggested adding specific language regarding campaign contributions since this is a controversial issues. Commissioner Bullock stated it is always good to disclose. Commissioner Hersha stated we can discuss whether to add at a later meeting. He suggested setting a minimum amount to help eliminate smaller donations. Commissioner Baldwin asked what other cities do. Commissioner Hersha stated most cities have revised their campaign finance systems. He stated the biggest ethical concern according to the public is contributions. Commissioner Baldwin stated the amount of spending should be limited. Mr. Robinson

stated the city cannot change this because it is governed by state law. He stated the City of Dewitt has an ethics ordinance which does not have campaign limitations, it only prohibits soliciting or accepting gifts and loans. Commissioner Hersha asked Mr. Robinson to verify what the city is prohibited from doing regarding campaign finance laws. He stated that the commission has a responsibility to recognize problems.

7) Gifts, Favors and Loans – Commissioner Bullock suggested changing “should” to “shall”. Mr. Robinson stated when the Code was first adopted, many commissioners felt it sounded like the 10 Commandments so softer language was used. Commissioner Bullock suggested making the first paragraph match the other paragraphs to remain consistent. Referring to the first paragraph, first sentence, Commissioner Hersha feels this statement is too broad and it covers almost everything you do. Commissioner Baldwin questioned weakening the Code in its first year and feels we need to give it time. Mr. Robinson stated the language comes from Judicial Code of Conduct. Commissioner Hersha agrees it should not change, however, most commissioners have outside jobs, judges do not. Commissioner Baldwin agreed, but feels it is best to wait another year. Commissioner Bullock asked what pancaking is? City Clerk Susan Bedsole stated it is the taking of multiple checks for one event. Commissioner Hersha asked how value is determined. Mr. Robinson stated valuation is difficult. Commissioner Bullock asked if we want to add pancaking language and should it be limited to per event or per occasion. Mr. Robinson stated that this is a very gray area.

8) Confidential Information - no comment.

9) Use of Public Resources - no comment.

10) Representation of Private Interests - Referring to the first paragraph, Commissioner Baldwin asked if this meant that her husband could not speak at the meeting. Mr. Robinson answered no, and added that it means if he wanted something zoned, you cannot speak on his behalf to the zoning commission. He stated that you cannot appear before boards and commissions on behalf of others.

11) Advocacy - Commissioner Bullock agrees with the language Commissioner Hersha added. Commissioner Baldwin agrees.

12) Policy Role of Members - Commissioner Hersha stated this is a difficult situation because people expect the commission to help even though in many situations they cannot. Commissioner Baldwin stated we can tell them where to find the answer. Mr. Robinson stated an organizational goal is to be responsive to citizens, however, there is a certain priority when a commissioner calls you. He stated there is an underlying message to call commissioners directly. Commissioner Baldwin stated the language is good but the staff needs the ability to tell someone it is happening.

13) Independence of Boards and Commissions - Commissioner Hersha asked if it was suggested NPC disallow membership for City Commissioners. Mr. Robinson answered yes, and should refrain from commenting on this issue.

14) Positive Workplace Environment - no comment.

15) Compliance and Enforcement – Commissioner Baldwin asked where the language came from. Mr. Robinson answered it came from legislative bodies that self-police. There is a need to be able to censure in the most extreme cases, and this is the only place this language exists.

16) Implementation - Commissioner Hersha asked if “annually” is reasonable. Commissioner Baldwin suggested adding it must be signed annually. Commissioner Hersha stated that signing it corresponds with being a living document. He suggested possibly having an Ethics Week. Commissioner Baldwin suggested having the Youth Advisory Board do it. Mr. Robinson suggested having a resolution indicating the changes or stating there were no changes.

Commissioner Hersha stated he will e-mail the questions to the commission. Mr. Robinson suggested meeting again on Tuesday, April 26, 2005 at 2:00 p.m.

Commissioner Hersha adjourned the meeting.

SEB/cs